

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HILLARY BEST,	:	
	:	
Petitioner,	:	
v.	:	
	:	<u>ORDER</u>
	:	20-CV-2382 (WFK)(LB)
NEW YORK CITY POLICE DEPARTMENT	:	
SEX OFFENDER UNIT,	:	
	:	
Respondent.	:	
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WILLIAM F. KUNTZ, II, United States District Judge:

On April 23, 2020, Petitioner Hillary Best filed this *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the constitutionality of his 2007 conviction in the New York Supreme Court, Queens County. ECF No. 1. By Order dated June 3, 2020, ECF No. 7, the Court explained the “in custody” standing requirement and statute of limitations applicable to § 2254 petitions, found the Petition failed to meet either requirement, and directed Petitioner to show cause by written affirmation, within thirty days of entry of the Order, why the Petition should not be dismissed.

By Order dated July 15, 2020, ECF No. 15, the Court denied Petitioner’s request for counsel and dismissed the Petition for lack of jurisdiction as Petitioner was not “in custody” pursuant to the 2007 conviction or sentence at the time he filed the Petition. The Clerk of Court entered judgment on July 17, 2020.

On the same day the judgment was entered, Petitioner filed a notice of appeal and a “Notice of Motion for Re-Argument,” ECF No. 18, asserting, *inter alia*, the Court should have considered his request for an extension of time, ECF Nos. 9, 10, to respond to the Court’s June 3,

2020 Order. To the extent Petitioner seeks additional time to file a response to the Court's June 3, 2020 Order, the Judgment entered July 17, 2020 is VACATED and his motion is granted.

Since the Judgment is vacated, the Notice of Appeal is premature.

To the extent Petitioner seeks reconsideration of the Court's order denying appointment of pro bono counsel, ECF No. 16 at 3-4, the motion is denied because he does not point the Court to any ground for reconsideration under the strict standards of Local Civil Rule 6.3 and Federal Rule of Civil Procedure 59(e).

Petitioner shall file a response to the Court's June 3, 2020 Order on or before Monday, August 24, 2020 at 5:00 P.M. Petitioner shall inform the United States Court of Appeals for the Second Circuit the judgment has been vacated. If Petitioner fails to respond to the Court's June 3, 2020 Order within the time allowed, judgment shall enter. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Clerk of Court is directed to mail a copy of this Order to Hillary Best at his address of record and note the mailing on the docket.

SO ORDERED.

WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: July 24, 2020
Brooklyn, New York